

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DYSON, INC.,)	
)	Case No. 10-cv-08126
Plaintiff,)	
)	Judge Samuel Der-Yeghiayan
v.)	
)	Magistrate Judge Maria Valdez
BISSELL HOMECARE, INC.,)	
)	
Defendant.)	

**DEFENDANT BISSELL HOMECARE, INC.'S, ANSWER AND AFFIRMATIVE
DEFENSES TO DYSON, INC.'S COMPLAINT**

Defendant, BISSELL Homecare, Inc. ("BISSELL"), through its undersigned counsel, submits the following answer and affirmative defenses in response to the Complaint of Plaintiff Dyson, Inc. ("Dyson").

1. BISSELL lacks knowledge or information sufficient to form a belief as to the truth of falsity of the allegations in paragraph 1 and on that basis denies them.

2. BISSELL admits that it distributes and sells vacuum cleaners in the U.S. It denies the remaining allegations in paragraph 2.

3. BISSELL denies the allegations in paragraph 3.

4. BISSELL lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 4 and on that basis denies them.

5. BISSELL admits that "HEPA" is short for High Efficiency Particulate Air.

BISSELL also admits that it uses the term "HEPA" in some of its vacuum cleaner

advertisements. BISSELL admits that a HEPA filter in a vacuum cleaner can benefit consumers. BISSELL denies that HEPA refers solely or primarily to the ability of a filtration system to trap at least 99.97% of dust and other particles that are 0.3 microns in size, and further denies - on information and belief - that HEPA is understood by consumers to mean such ability. BISSELL lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 5, and on that basis denies them.

6. BISSELL lacks knowledge and information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 6 and on that basis denies them.

7. BISSELL denies the allegations in paragraph 7.

8. BISSELL denies the allegations in paragraph 8.

9. BISSELL admits that the statement "[v]acuuming is part of the dust control portion of the cleaning process to help control these allergens. It is important you use a quality vacuum. Without a quality vacuum, you will be circulating dirty air throughout the room. What you need is a vacuum with an excellent filtration system. BISSELL has the HEPA filter technology supporting many of the vacuum products including the Healthy Home Vacuum™. The vacuum will aid in removing 99.97% of dust mites, pollens, and ragweed particles from your home[]" appeared at some time on its web site. BISSELL denies the remaining allegations in paragraph 9.

10. BISSELL lacks knowledge and information sufficient to form a belief as to any tests, or the truth or falsity of any results of such tests, commissioned by Dyson, and on that basis

denies all allegations in paragraph 10 relating to such tests or their results. BISSELL denies the remaining allegations in paragraph 10.

11. BISSELL admits that the statements "BISSELL products are evaluated to a comprehensive test process employing over 150 specific tests," and "performs and complies with all industry test standards" appear on its web site. BISSELL denies the remaining allegations in paragraph 11.

12. BISSELL denies the allegations in paragraph 12.

13. BISSELL denies the allegations in paragraph 13.

14. BISSELL denies the allegations in paragraph 14.

15. BISSELL admits that Dyson has alleged that BISSELL has engaged in false advertising in violation of the Lanham Act, 15 U.S.C. § 1125(a), and related Illinois statutory and common law. BISSELL also admits that Dyson is seeking permanent injunctive relief, statutory, punitive, compensatory and enhanced damages, its costs, attorneys' fees and BISSELL's profits. BISSELL denies that it has violated any of these laws, and BISSELL further states that Dyson is therefore not entitled to any of the relief it seeks.

16. Upon information and belief, BISSELL admits that Dyson is an Illinois corporation. BISSELL lacks knowledge and information sufficient to form a belief as to the truth or falsity of the remaining allegations in paragraph 16 and on that basis denies them.

17. BISSELL admits that it is a Michigan corporation with its principal place of business at 2345 Walker Avenue, NW, Grand Rapids, Michigan 49544. BISSELL also admits

that it markets and sells consumer appliances, including upright, canister and handheld vacuums, cleaning products, sweepers, mops and steam cleaners in the U.S. BISSELL denies the remaining allegations in paragraph 17.

18. BISSELL admits that its products are sold at many retail outlets. BISSELL lacks knowledge and information sufficient to form a belief as to the truth or falsity of the remaining allegations in paragraph 18 and on that basis denies them.

19. BISSELL admits that this Court has subject matter and supplemental jurisdiction over this case.

20. BISSELL admits that this Court has personal jurisdiction over it. BISSELL denies the remaining allegations in paragraph 20.

21. BISSELL admits that venue is proper in this judicial district.

22. BISSELL admits that upright vacuums have handles, canister vacuums are low to the floor, and that in the U.S. upright vacuums tend to be sold more frequently than canister vacuums. BISSELL further states that the remaining allegations in paragraph 22 are too vague and imprecise to allow being admitted or denied, and on that basis denies them.

23. BISSELL admits that vacuum cleaners use suction power to pick up dust and debris, and that suction power is relevant to the performance of vacuum cleaners. BISSELL lacks knowledge and information sufficient to form a belief as to the truth or falsity of the remaining allegations in paragraph 23 and on that basis denies them.

24. BISSELL lacks knowledge and information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 24 and on that basis denies them.

25. BISSELL lacks knowledge and information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 25 and on that basis denies them.

26. BISSELL admits that it has neither sought nor obtained AAFA certification for any of its vacuum cleaners. BISSELL lacks knowledge and information to form a belief as to the truth or falsity of the remaining allegations in paragraph 26 and on that basis denies them.

27. BISSELL lacks knowledge and information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 27 and on that basis denies them.

28. BISSELL lacks knowledge and information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 28 and on that basis denies them.

29. BISSELL lacks knowledge and information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 29 and on that basis denies them

30. BISSELL lacks knowledge and information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 30 and on that basis denies them.

31. BISSELL lacks knowledge and information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 31 and on that basis denies them .

32. BISSELL lacks knowledge and information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 32 and on that basis denies them.

33. BISSELL lacks knowledge and information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 33 and on that basis denies them.

34. BISSELL denies the allegations in paragraph 34.

35. BISSELL denies the allegations in paragraph 35.

36. BISSELL admits that it states "BISSELL's goal is to help you improve the ways you take care of your home, right down to the microscopic irritants. Since 1876, we've spent years developing cleaning tools designed to keep you living environment up to the highest standards[]" on its Our History page of its web site. BISSELL also admits that it uses the tagline "WE MEAN CLEAN!" BISSELL denies the remaining allegations in paragraph 36.

37. BISSELL denies the allegations in paragraph 37.

38. BISSELL lacks knowledge and information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 38 and on that basis denies them.

39. BISSELL lacks knowledge and information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 39 and on that basis denies them.

40. BISSELL admits that it stated "[c]onsumers are becoming increasingly aware of how important it is to create and maintain a healthy home environment," and "[n]o one likes to think of their home as unclean or unhealthy, but the reality is that most homes are not as clean as they appear," in a press release entitled "BISSELL Invites Consumers to Get Healthy, Starting with Their Homes; Online Contest Offers a \$10,000 Healthy Home Makeover," by BISSELL

Homecare, Inc. dated October 17, 2006. BISSELL denies the remaining allegations in paragraph 40.

41. BISSELL admits that it maintains a web site and advertises its products. BISSELL denies the remaining allegations of paragraph 41.

42. BISSELL admits that the statement "the air in homes can contain 70 percent as much pollen as outdoor air, and nearly 100,000 dust mites can live in one square yard of carpet. Not to mention, eight in 10 American homes have dust mites, and six in 10 American homes – even those without pets – have cat or dog dander" appears in a article entitled "New BISSELL Cleaning Products Help Keep Homes Healthier" in the BISSELL newsroom dated August 20, 2009. BISSELL denies the remaining allegations in paragraph 42.

43. BISSELL admits that the statement that some of its products capture 99.97% of certain common household allergens appeared at some point on its web site. BISSELL denies the remaining allegations of paragraph 43.

44. BISSELL admits that the statement "[v]acuuming is part of the dust control portion of the cleaning portion of the cleaning process to help control these allergens. It is important you use a quality vacuum. Without a quality vacuum, you will be circulating dirty air throughout the room. What you need is a vacuum with an excellent filtration system. BISSELL has the HEPA filter technology supporting many of the vacuum products including the HEALTHY HOME VACUUM™. The vacuum will aid in removing 99.97% of dust mites, pollens, and ragweed particles from your home[]" appeared at some point on its web site. BISSELL denies the remaining allegations in paragraph 44.

45. BISSELL denies that the statement "[w]hen pollen, dirt and dander find their way into the home, they take up residence in carpet and on top of hard surfaces, causing trouble for people with allergies when they get stirred up. To help people reclaim their homes and their lives, BISSELL has developed a line of powerful allergen control products...Browse BISSELL's line of allergen control products today[]" appears on its web site. BISSELL further states that the statement "[w]hen pollen, dirt and dander find their way into the home, they take up residence in carpet and on top of hard surfaces, causing trouble for people with allergies when they get stirred up. To help people reclaim their homes and their lives, BISSELL has developed a line of powerful allergen control products. This allergen control line includes products ranging from the ProHeat 2X Healthy Home Deep Cleaner, designed to remove four times more embedded allergens than vacuuming alone, to the 2X Multi-Allergen Formula, a formula to help remove multiple allergens like dust mite waste, pet and pollen allergen. Browse BISSELL's line of allergen control products today" appears on its web site. BISSELL denies the remaining allegations set forth in paragraph 45.

46. BISSELL admits that the statement "[h]ow are vacuums tested? During the design and development process, BISSELL products are evaluated according to a comprehensive test process employing 150 specific tests! This broad test approach assesses each design in terms of product safety, durability, reliability, and performance, leaving no stone unturned. No product is deemed ready for production and consumer purchase until it passes stringent design requirements established by marketing and engineering that ensures total user satisfaction. Many of the product tests that BISSELL performs are based on extensive experience gleaned from over 128 years of floor care experience; experience that is unmatched by our competitors. BISSELL also performs and complies with all of the industry test standard tests that are recommended by

UL, CSA, ASTM, ANSI, and IEC. Our test requirements typically exceed the industry standards to ensure our products are extremely safe and high performing as we strive to be our customers first choice for cleaning products[]" appears on its web site. BISSELL denies the remaining allegations in paragraph 46.

47. BISSELL admits that the Complaint alleges advertising claims regarding some of BISSELL's vacuum cleaner models. BISSELL denies the remaining allegations of paragraph 47.

48. BISSELL admits that some of its vacuum cleaners have HEPA media filters. BISSELL denies the remaining allegations in paragraph 48.

49. BISSELL denies that it advertises that "[t]he HEPA Media Filter captures over 99.9% of dust mites, pollen and ragweed to help you maintain a cleaner and healthier home." BISSELL admits the remainder of paragraph 49.

50. BISSELL admits that it states that the Rewind SmartClean and PurePro Cyclonic upright vacuum models have HEPA media filters. BISSELL denies the remaining allegations in paragraph 50.

51. BISSELL admits that it states that the Pet Hair Eraser and DigiPro Canister vacuum models have HEPA media filters. BISSELL denies the remaining allegations in paragraph 51.

52. BISSELL admits that it states that the Pet hair eraser corded handheld and CleanView Deluxe corded handheld vacuum cleaner models have HEPA media filters. BISSELL also admits the July 17, 2008 statement on PR Newswire regarding the Pet Hair Eraser

corded handheld vacuum cleaner model that “[i]ts compact design makes it easy to store and a HEPA media filter ensures a healthier, thorough clean for the pet lover’s home.” BISSELL denies the remainder of paragraph 52.

53. BISSELL denies the allegations in paragraph 53.

54. BISSELL states that the statements quoted in paragraph 54 are incomplete and out of context, and on that basis denies them as they are set forth in paragraph 54. BISSELL denies all remaining allegations in paragraph 54.

55. BISSELL admits that the packaging of the Healthy Home vacuum cleaner model contains the statement quoted in paragraph 55. BISSELL denies all remaining allegations in paragraph 55.

56. BISSELL states that the statement quoted in paragraph 56 is incomplete and out of context and on that basis denies is as it is set forth in paragraph 56. BISSELL denies all remaining allegations in paragraph 56.

57. BISSELL denies the allegations in paragraph 57.

58. BISSELL lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 58 and on that basis denies them.

59. BISSELL lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 59 and on that basis denies them.

60. BISSELL denies that none of its vacuum models provided HEPA-level performance. BISSELL further denies that the actual filtration performance of its vacuums was

materially worse than what BISSELL advertised it to be. BISSELL lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations in paragraph 60 and on that basis denies them.

61. BISSELL lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 61 and on that basis denies them.

62. BISSELL admits that it uses the trademark AireTight®. BISSELL lacks knowledge or information sufficient to form a belief as to whether the alleged dictionary definition for the word "airtight" quoted in paragraph 62 is complete and accurate, and on that basis denies it. BISSELL denies the remaining allegations in paragraph 62.

63. BISSELL lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 63 and on that basis denies them.

64. BISSELL lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 64 and on that basis denies them.

65. BISSELL lacks knowledge and information to form a belief as to the truth or falsity of Dyson's testing methodology and purported results in paragraph 65 and on that basis denies them. BISSELL denies that its advertising statements are literally false. BISSELL denies the remaining allegations of paragraph 65.

66. BISSELL denies the allegations in paragraph 66.

67. BISSELL lacks knowledge and information to form a belief as to the truth or falsity of the allegations in paragraph 67 and on that basis denies them.

68. BISSELL lacks knowledge and information to form a belief as to the truth or falsity of the allegations in paragraph 68 and on that basis denies them.

69. BISSELL lacks knowledge and information to form a belief as to the truth or falsity of the allegations in paragraph 69 and on that basis denies them.

70. BISSELL lacks knowledge and information to form a belief as to the truth or falsity of Dyson's testing methodology and purported results in paragraph 70 and on that basis denies them. BISSELL denies the remaining allegations in paragraph 70.

71. BISSELL lacks knowledge and information to form a belief as to the truth or falsity of Dyson's testing methodology and purported results in paragraph 71 and on that basis denies them. BISSELL denies the remaining allegations in paragraph 71.

72. BISSELL lacks knowledge and information to form a belief as to the truth or falsity of Dyson's testing methodology and purported results in paragraph 72 and on that basis denies them. BISSELL denies the remaining allegations in paragraph 72.

73. BISSELL lacks knowledge and information to form a belief as to the truth or falsity of Dyson's testing methodology and purported results in paragraph 73 and on that basis denies them. BISSELL denies the remaining allegations in paragraph 73.

74. BISSELL denies the allegations in paragraph 74.

75. BISSELL denies the allegations in paragraph 75.

76. BISSELL lacks knowledge and information to form a belief as to the truth or falsity of Dyson's testing methodology and purported results in paragraph 76 and on that basis

denies them. BISSELL denies that its vacuums have "poor filtration performance and poor design." BISSELL denies the remaining allegations in paragraph 76.

77. BISSELL lacks knowledge and information to form a belief as to the allegations in paragraph 77 and on that basis denies them.

78. BISSELL lacks knowledge and information sufficient to form a belief as to the truth or falsity of Dyson's testing methodology or purported results and on that basis denies them. BISSELL denies the remaining allegations and characterizations of its advertising in paragraph 78.

79. BISSELL denies the allegations in paragraph 79.

80. BISSELL admits that the statement "[h]ow are vacuums tested? During the design and development process, BISSELL products are evaluated according to a comprehensive test process employing 150 specific tests! This broad test approach assesses each design in terms of product safety, durability, reliability, and performance, leaving no stone unturned. No product is deemed ready for production and consumer purchase until it passes stringent design requirements established by marketing and engineering that ensures total user satisfaction. Many of the product tests that BISSELL performs are based on extensive experience gleaned from over 128 years of floor care experience; experience that is unmatched by our competitors. BISSELL also performs and complies with all of the industry test standard tests that are recommended by UL, CSA, ASTM, ANSI, and IEC. Our test requirements typically exceed the industry standards to ensure our products are extremely safe and high performing as we strive to be our customers first choice for cleaning products[]" appears on its web site. The portions of that statement set forth in the Complaint portions of these statements are incomplete, truncated and taken out of

context, and BISSELL denies them on that basis. BISSELL denies the remaining allegations and characterizations of its advertising in paragraph 80.

81. BISSELL denies the allegations in paragraph 81.

82. BISSELL denies the allegations in paragraph 82.

83. BISSELL admits that its CleanView Helix, Lift-Off MultiCyclonic Pet, Pet Hair Eraser upright, Momentum, Rewind SmartClean and PurePro Multi Cyclonic do not contain post-motor seals. BISSELL denies the remaining allegations in paragraph 83.

84. BISSELL denies the allegations in paragraph 84.

85. BISSELL admits that its Healthy Home vacuum has a properly working seal. BISSELL denies the remaining allegations in paragraph 85.

86. BISSELL denies the allegations in paragraph 86.

87. BISSELL lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 87 and on that basis denies them.

88. BISSELL lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations in paragraph 88 and on that basis denies them.

89. BISSELL lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations in paragraph 89 and on that basis denies them.

90. BISSELL lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations in paragraph 90 and on that basis denies them.

91. BISSELL admits that some of its vacuum cleaners are sold in the range of \$29.99 to \$129.99. BISSELL denies that its vacuum cleaners "perform poorly compared to Dyson's." BISSELL lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations in paragraph 91 and on that basis denies them.

92. BISSELL admits that some of its advertisements make HEPA-related claims. BISSELL lacks knowledge or information sufficient to form a belief as to the truth or falsity of Dyson's HEPA filtration advertising claims and on that basis denies them. BISSELL denies the remaining allegations in paragraph 92.

93. BISSELL denies the allegations in paragraph 93.

94. BISSELL denies that its statements of HEPA and allergen capture performance and resulting health benefits are false. BISSELL lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 94 relating to the customers that Dyson competes for and on that basis denies them. BISSELL denies the remaining allegations in paragraph 94.

95. BISSELL denies the allegations in paragraph 95.

96. BISSELL lacks knowledge or information sufficient to form a belief as to the truth or falsity of Dyson's alleged development and goodwill with regard to its products and business and on that basis denies them. BISSELL lacks knowledge or information sufficient to form a belief as to the truth or falsity of Dyson's allegation that it "provid[es] innovations that few, if any other, vacuum cleaner manufacturers provide" and on that basis denies these allegations. BISSELL denies the remaining allegations in paragraph 96.

97. BISSELL denies the allegations in paragraph 97.

98. BISSELL denies the allegations in paragraph 98.

99. BISSELL denies the allegations in paragraph 99.

100. BISSELL denies the allegations in paragraph 100.

101. BISSELL admits that some of the "foregoing acts" alleged in the Complaint have occurred in interstate commerce. BISSELL denies the remaining allegations in paragraph 101, and specifically denies any implied allegation in paragraph 101 that any of its actions alleged in the Complaint are in any way wrongful.

COUNT I

102. BISSELL realleges and incorporates its answers to the allegations in paragraphs 1 through 101 of the Complaint, as though set forth in full herein.

103. BISSELL denies the allegations in paragraph 103.

104. BISSELL denies the allegations in paragraph 104.

105. BISSELL denies the allegations in paragraph 105.

106. BISSELL denies the allegations in paragraph 106.

107. BISSELL denies the allegations in paragraph 107.

108. BISSELL denies the allegations in paragraph 108.

109. BISSELL denies the allegations in paragraph 109.

110. BISSELL denies the allegations in paragraph 110.

COUNT II

111. BISSELL realleges and incorporates its answers to the allegations in paragraphs 1 through 110 of the Complaint, as though set forth in full herein.

112. BISSELL admits that it is engaged in trade and commerce in the state of Illinois and in interstate trade or commerce. Upon information and belief, BISSELL admits that Dyson is engaged in trade and commerce in the state of Illinois and in interstate trade or commerce.

113. BISSELL denies the allegations in paragraph 113.

114. BISSELL denies the allegations in paragraph 114.

115. BISSELL admits that it advertises and sells products in Illinois. BISSELL lacks knowledge and information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 115 and on that basis denies them.

116. BISSELL denies the allegations in paragraph 116.

117. BISSELL denies the allegations in paragraph 117.

118. BISSELL denies the allegations in paragraph 118.

119. BISSELL denies the allegations in paragraph 119.

120. BISSELL denies the allegations in paragraph 120.

COUNT III

121. BISSELL realleges and incorporates its answers to the allegations in paragraphs 1 through 120 of the Complaint, as though set forth in full herein.

122. BISSELL admits that it is engaged in trade and commerce in the state of Illinois and in interstate trade or commerce. Upon information and belief, BISSELL admits that Dyson is engaged in trade and commerce in the state of Illinois and in interstate trade or commerce.

123. BISSELL admits that it advertises and sells products in Illinois. BISSELL lacks knowledge and information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 123 and on that basis denies them.

124. BISSELL denies the allegations in paragraph 124.

125. BISSELL denies the allegations in paragraph 125.

126. BISSELL denies the allegations in paragraph 126.

127. BISSELL denies the allegations in paragraph 127.

128. BISSELL denies the allegations in paragraph 128.

COUNT IV

129. BISSELL realleges and incorporates its answers to the allegations in paragraphs 1 through 128 of the Complaint, as though set forth in full herein.

130. BISSELL admits that it is engaged in trade and commerce in the state of Illinois and in interstate trade or commerce. Upon information and belief, BISSELL admits that Dyson is engaged in trade and commerce in the state of Illinois and in interstate trade or commerce.

131. BISSELL lacks knowledge and information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 131 and on that basis denies them.

132. BISSELL denies the allegations in paragraph 132.

133. BISSELL denies the allegations in paragraph 133.

134. BISSELL denies the allegations in paragraph 134.

135. BISSELL denies the allegations in paragraph 135.

136. BISSELL denies the allegations in paragraph 136.

ANSWER TO DYSON'S PRAYER FOR RELIEF

Responding to Dyson's prayer for Relief set forth in the Complaint, BISSELL hereby incorporates and restates its responses to paragraphs 1 through 136 herein. BISSELL denies that Dyson is entitled to any judgment against BISSELL, any of the relief against BISSELL requested in the Complaint, or any other relief.

BISSELL'S AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE
FAILURE TO STATE A CLAIM

The Complaint fails to state a claim upon which relief may be granted because the advertisements alleged in the Complaint are true, not deceptive, not literally false, immaterial, or in conformance with general advertising practice in the vacuum cleaner industry.

SECOND AFFIRMATIVE DEFENSE
LACHES

Dyson's claims are barred by the doctrine of laches because Dyson knew or reasonably should have known for more than three years of the facts alleged in the Complaint, and BISSELL is prejudiced by Dyson's delay.

THIRD AFFIRMATIVE DEFENSE
STATUTE OF LIMITATIONS

Dyson's state and common law claims are barred by the applicable Illinois statute of limitations because Dyson knew or reasonably should have known for more than three years of the facts alleged in the Complaint.

FOURTH AFFIRMATIVE DEFENSE
ACQUIESCENCE

Dyson's claims are barred by the doctrine of acquiescence because Dyson's actions conveyed to BISSELL Dyson's consent to BISSELL's advertising practices that Dyson is now challenging in the Complaint.

FIFTH AFFIRMATIVE DEFENSE
ESTOPPEL

Dyson's claims are barred by the doctrine of estoppel because Dyson has represented to BISSELL that the facts alleged in the Complaint do not give rise to actionable claims by Dyson against BISSELL.

SIXTH AFFIRMATIVE DEFENSE
RELEASE

Dyson's claims are barred because Dyson has released BISSELL from the claims alleged in the Complaint.

SEVENTH AFFIRMATIVE DEFENSE
UNCLEAN HANDS

Dyson's claims are barred by the doctrine of unclean hands because Dyson has engaged in false advertising related to the performance of its vacuum cleaners.

PRAYER FOR RELIEF

WHEREFORE, BISSELL prays that judgment with prejudice be entered against Dyson on all claims set forth in the Complaint, and that Dyson be required to pay all of BISSELL's costs, expenses, and attorneys' fees associated with defending this action.

Dated: February 3, 2011

Respectfully submitted,

PATTISHALL, McAULIFFE, NEWBURY,
HILLIARD & GERALDSON LLP

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